

**PRACTICES AND PROCEDURES OF  
MAGISTRATE JUDGE FRANCIS X. CAIAZZA**

**I. GENERAL MATTERS**

**A. Communications with the Court**

Magistrate Judge Caiazza accepts correspondence with the court in lieu of motions practice.

**B. Communications with Law Clerks**

Magistrate Judge Caiazza permits communications with law clerks concerning the administration of a case and counsel may inquire only as to the status of pending motions.

**C. Telephone Conferences**

Magistrate Judge Caiazza permits attorneys to participate by telephone in case management conferences whenever good cause is shown. Where one counsel is participating by phone, he prefers that all counsel do likewise to avoid any appearance of impropriety. For pretrial and settlement conferences, the Judge requires counsel to be physically present. In general, the parties need not be present for conferences other than the settlement conference.

**D. Pro Hac Vice Admissions**

Magistrate Judge Caiazza will not entertain oral motions for admissions pro hac vice.

**E. Comment to the Media**

Magistrate Judge Caiazza prefers that attorneys not speak with the media during the course of a trial.

**II. MOTIONS PRACTICE**

**A. Oral Argument**

On a case by case basis, Magistrate Judge Caiazza may permit oral argument on summary judgment motions, particularly where complex issues are involved. He prefers to resolve discovery disputes informally. At the first status conference, attorneys are instructed to contact the Judge's law clerk if the Judge's intervention is sought in a discovery dispute.

**B. Briefs**

With the exception of simple discovery motions, all motions must be accompanied by a brief. Magistrate Judge Caiazza imposes a 25-page limit on briefs, but will grant motions to exceed the limit where appropriate. The Judge's standard Case Management Order provides only for an initial brief and a response. He discourages the filing of reply and sur-reply briefs. However, where an attorney finds it necessary to file

a reply or sur-reply brief, the Judge's law clerk should be given prompt notice of that intention.

C. **Chambers Copies of Motion Papers**

Magistrate Judge Caiazza accepts courtesy copies of motions and briefs, but does not require them.

D. **Scheduling**

Magistrate Judge Caiazza generally requires that responses to motions be filed within 11 to 20 days. Responses to summary judgement motions are due within 30 days. [See Magistrate Judge Caiazza's standard case management order attached as Exhibit III.A]. The brief should be filed with the motion.

E. **Magistrate Judge's Report Recommendations**

Not applicable.

F. **Evidentiary Hearings**

Magistrate Judge Caiazza prefers to hold pretrial evidentiary hearings well before the trial so that counsel will know the court's rulings while planning for the trial.

G. **In Limine Motions**

Whenever possible, Magistrate Judge Caiazza prefers that motions in limine be presented well in advance of trial. He also tries to rule on such motions prior to trial.

III. **CIVIL CASES**

A. **Pretrial Procedures**

1. **Local Rule 16.1.4**

Magistrate Judge Caiazza has no standard pretrial order. Counsel must comply with Local Rule 16.1.4 governing the filing of pretrial statements.

2. **Pretrial Conferences**

Local Rule 16.1.4 requires the Judge to hold a pretrial conference following the filing of pretrial statements. Generally, the first conference held after the case management conference is a settlement conference. Status conferences will be scheduled as necessary.

3. **Settlement**

Magistrate Judge Caiazza actively attempts to facilitate settlements. Where the parties agree to a non-jury trial, he will refer settlement discussions to another magistrate judge of the Court. Magistrate Judge Caiazza explores the possibility of ADR with parties by asking if the parties will consent to arbitration or mediation.

4. **Extensions and Continuances**

Magistrate Judge Caiazza will continue arguments, hearings and conferences if circumstances require. He expects an attorney requesting a continuance to make an honest effort to abide by the schedule and to present a valid reason for deviating from it.

B. **Discovery Matters**

1. **Length of Discovery Period and Extensions**

At the case management conference, Magistrate Judge Caiazza invites suggestions as to the schedule for discovery. He prefers that counsel allow ample time to complete discovery so as reduce the need for requesting extensions. In general, Magistrate Judge Caiazza allows 120 days for discovery. He will grant reasonable extensions where they are consented to by the parties.

2. **Expert Witnesses**

Federal Rule of Civil Procedure 26(b)(4) permits the deposition prior to trial of experts who are expected to be witnesses.

3. **Deposition Disputes**

Magistrate Judge Caiazza will entertain telephone calls from counsel requesting his intervention in discovery disputes. While this informal approach is valuable in expediting cases, he will require the matter to be raised by motion where the dispute raises an appealable issue.

4. **Stay of Discovery**

Magistrate Judge Caiazza's general policy is not to grant requests for a stay of discovery during the pendency of a dispositive motion. Exceptions will be made where appropriate.

5. **Limitations on Discovery**

Magistrate Judge Caiazza imposes no restrictions on the number of interrogatories or depositions or on the use of any other discovery procedures.

6. **Rule 11 Motions - Rule 37 Sanctions**

Magistrate Judge Caiazza tries to resolve Rule 11 and Rule 37 sanctions motions as promptly as possible. He does, on occasion, award attorney's fees.

C. **Injunctions and TROs**

Magistrate Judge Caiazza will expeditiously hear requests for injunctions. He prefers to handle injunctions and TROs only by consent of the parties. Requests for expedited discovery must be made by motion and will be granted when appropriate.

**D. Trial Procedures**

**1. Scheduling of Cases**

Magistrate Judge Caiazza will set a date certain for trial after conferring with counsel. He does not schedule a back-up trial date. He will give equal consideration to the conflicting schedules of attorneys and witnesses in making calendar adjustments.

**2. Trial Hours/Days**

Generally, Magistrate Judge Caiazza will hold trial between the hours of 9:30 a.m. and 4:00 p.m., Monday through Friday.

**3. Trial Briefs**

Magistrate Judge Caiazza permits the filing of trial briefs but does not require them. He has no specific practice regarding a filing date for trial briefs.

**4. Voir Dire**

Magistrate Judge Caiazza will conduct voir dire himself. He does permit counsel to conduct some portion of the voir dire. He may permit counsel to supplement the court's standard voir dire questions. Suggested voir dire questions may be submitted in counsel's pretrial statement or at the pretrial conference.

**5. Notetaking by Jurors**

Magistrate Judge Caiazza does not permit notetaking by jurors.

**6. Side Bars**

Magistrate Judge Caiazza entertains side bar conferences as needed during trial.

**7. Examination of Witnesses Out of Sequence**

Magistrate Judge Caiazza will permit witnesses to be questioned out of sequence, and even within the opposing party's case, where good reason is offered by counsel.

**8. Opening Statements and Summations**

Magistrate Judge Caiazza does not generally limit the amount of time allowed for arguments.

**9. Examination of Witnesses or Argument by More Than One Attorney**

Magistrate Judge Caiazza will not generally permit the examination of a witness by more than one attorney on behalf of each party, but will consider such a request where good reason is offered.

10. **Examination of Witnesses Beyond Direct and Cross**  
Magistrate Judge Caiazza permits re-direct and re-cross but restricts questioning beyond an initial re-direct and re-cross.
11. **Videotaped Testimony**  
Magistrate Judge Caiazza has no specific rules with regard to videotaped testimony. Where possible, transcripts should be provided to the Judge one week prior to trial.
12. **Reading of Material into the Record**  
Magistrate Judge Caiazza follows no particular practices regarding reading into the record of deposition testimony or other materials. He will defer to counsel's preference, but considers such reading unnecessary in non-jury trials.
13. **Exhibits**  
Magistrate Judge Caiazza requires that exhibits be exchanged by the parties in advance of trial. Exhibits should also be marked in advance of trial. The Judge welcomes a bench book of exhibits in long or complex cases. He generally defers to counsels' judgment as to how they want to present their case with respect to the use of visual aids during trial. However, he requires that exhibits be offered into evidence before testimony is given about them.
14. **Directed Verdict Motions**  
Magistrate Judge Caiazza has no specific requirements as to directed verdict motions or motions to dismiss in non-jury trials.
15. **Jury Instructions and Verdict Forms**  
Magistrate Judge Caiazza encourages the early submission of proposed jury instructions and verdict forms. A pre-trial order set the date of submission.
16. **Proposed Findings of Fact and Conclusions of Law**  
Magistrate Judge Caiazza encourages the submission of proposed findings of fact and conclusions of law. They should be submitted after the close of testimony.
17. **Offers of Proof**  
Magistrate Judge Caiazza imposes no restrictions upon requests for offers of proof.
18. **General Courtroom Rules**  
Magistrate Judge Caiazza has no special rules regarding the conduct of attorneys during trial. Counsel should use common sense and act professionally. Counsel need not request permission to approach a witness. Counsel should, however, request permission before passing exhibits to the jury.

E. **Jury Deliberations**

1. **Written Jury Instructions**

Magistrate Judge Caiazza gives the jury a copy of the instructions.

2. **Exhibits in the Jury Room**

Exhibits which are in evidence are generally made available to the jury in the jury room. Magistrate Judge Caiazza will entertain objections as to excluding certain exhibits from the jury room.

3. **Jury Requests to Read Back Testimony or Replay Tapes During Deliberations**

Magistrate Judge Caiazza has no particular rule on this matter. He will confer with counsel prior to deciding whether the jury should rehear particular items of evidence.

4. **Jury Questions**

Magistrate Judge Caiazza will confer with counsel prior to answering the jury's questions in open court.

5. **Availability of Counsel During Jury Deliberations**

Counsel must be available by telephone during deliberations.

6. **Interviewing the Jury**

Magistrate Judge Caiazza informs jurors that they may individually decide whether to speak with counsel following trial.

F. **General**

1. **Special Types of Cases**

Magistrate Judge Caiazza requires the filing of a RICO Case Statement in every RICO action. He has no special procedures or practices with respect to other types of cases.

IV. **CRIMINAL CASES**

A. **Motions**

Not applicable.

B. **Pretrial Conferences**

Not applicable.

C. **Guilty Pleas**

Not applicable.

D. **Voir Dire**

Not applicable.

E. **Trial**

Not applicable.

F. **Sentencing Memoranda**

Not applicable.

G. **Sentencing Conference**

Not applicable.

H. **Other General Practices and Procedures**

Not applicable.